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OLC #78- 786/4

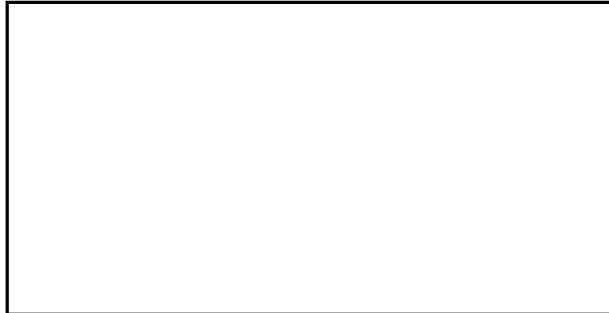
## AGENDA

IRC WORKING GROUP  
1500 HOURS, 10 AUGUST 1978

- A. MINUTES OF MEETING OF 27 JULY
- B. DRAFT EMPLOYEE NOTICE ON SEPARATE FORMAL AND  
INFORMAL SYSTEMS FOR EMPLOYEE ACCESS TO FILES  
ON THEMSELVES
- C. MODIFICATION OF FOIA — RELATED JUDICIAL  
RULINGS (to be distributed at meeting)
- D. CENTRAL RECORD OF DECLASSIFIED DOCUMENTS

IRC Working Group  
Minutes of 5th Meeting  
27 July 1978

STAT IN ATTENDANCE:



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A. IRC ACTION ON WORKING GROUP PROPOSAL RE PRIVACY ACT REQUESTS BY EMPLOYEES

[ ] reported that the IRC gave its approval to the Working Group's proposal regarding employees' requests for access to records on themselves. [ ] is presently drafting the procedures and Employee Notice necessary for the implementation of the proposal. In the appeals procedure to be proposed, the initial appeal will be to the head of the office which controls the particular file system in question, followed by an appeal to the IRC (with the Working Group functioning as the IRC appeals staff).

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B. DESIRED AMENDMENTS TO FOIA

[ ] proposed a strategy to be followed in developing a position for the DCI to use to get support for changes to the FOI Act. The strategy centers on using the judicial history from CIA litigations as support for a proposal to exempt categories of information from the FOIA. The rationale is that the courts have consistently sustained the Agency's assertions of exemption from release for certain categories of information and it is probable that in future cases the outcome will be similar. Therefore it is wasteful to consider and process requests for information falling into these categories.

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The discussion then turned to the problem of identifying existing systems of records with the categories of information used in FOIA litigation. [ ] was asked to undertake a review of FOIA

judgments to identify categories of information which are routinely exempted. His findings will be sent to the other members for their review and determination whether there is a relationship between these information categories and existing file systems.

C. MISCELLANEOUS

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1. [ ] shared with the Working Group a news clipping (attached) discussing the reform of Great Britain's Official Secrets Act.

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2. [ ] plans to prepare a draft Working Group charter for the members to comment upon.



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Attachment: a/s

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# Secrets Act Reinforced

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## Callaghan's 'Reform' Dismays British Press

By Bernard D. Nossiter  
Washington Post Foreign Service

LONDON, — In a candid moment, Roy Jenkins, then the home secretary, once described Britain as an "instinctively private, discreet and secretive society [where] there has been little spontaneous acclaim for the virtues of the Fourth Estate."

Prime Minister James Callaghan has now underscored Jenkins' words, his government having just produced a proposed "reform" of Britain's Official Secrets Act that virtually all editors here agree will sharpen its already fierce bite.

The proposals are embodied in a white paper that openly acknowledges that the government is abandoning the Labor Party's pledge to make officials justify the withholding of information.

In its election platform, Callaghan's party had, in effect, promised a U.S. style Freedom of Information Act. The white paper, however, says it would cost too much and is not needed anyway.

Apart from this moment of frankness, there is little in the document to provide even ironic comfort for a Fleet

### News Analysis

Street already inhibited by harsh libel laws and contempt judgments.

The Official Secrets Act, the best known of the press curbs here, was passed in 1911 largely as the result of a scare over German spies. Its first section, which outlaws disclosure that would help an enemy, has not occasioned much debate.

It is the famous Section Two that the white paper "reforms." This catches all jails anyone for giving or receiving any government information that has not been officially released. In theory, a reporter who simply received an unpublished survey of government tea-drinking habits can end up with two years in jail.

Section Two is rarely used. Its spirit, however, chills any potential whistle blowers and makes some journalists think twice about digging too hard into a government.

Callaghan now plans to confine Section Two's scope and make it a more usable tool. First, he proposes to end penalties for receiving prohibited information. A reporter would have to communicate or publish before he could go to jail.

Second, Callaghan would limit prohibited information to matters involving defense, foreign relations, law and order and confidences the government has received from private citizens.

The white paper does not spell out what these categories involve, although the prohibited information must cause "serious injury to the interests of the nation. No court would determine this, however. A minister's say-so would be final.

The headings appear broad enough to cover disclosures that the Defense Ministry has hurriedly spent millions on house furnishings to use up its budget, that Britain was secretly seeking U.S. help in negotiations over a German-French currency proposal, that the Defense Ministry was accepting defective helicopters from a contractor. Giving such information could jail a civil servant. Printing it—and all these British stories have been printed in the United States — could jail a reporter.

Although the white paper does propose exempting economic information, the currency question could still be caught under the rubric of foreign relations.

The Financial Times, one of the most sophisticated dailies here, observed that the old Section Two "has acquired a certain negative merit; it is so manifestly absurd that it is rarely used." But the proposed "new legislation might be actually more restrictive rather than less. If we were to have an act that is specific about the type of information that may or may not be disclosed, the temptation would be to use it."

The paper deplored the absence of a recommendation for a freedom of information law and dismissed the white paper argument that parliamentary scrutiny made it unnecessary.

"The fact is that under present conditions governments can get away with almost anything," it said.

The Guardian and The Times of London said much the same thing. The liberal Guardian called the white paper "a failure on every count" and the conservative Times described it as "a tactical defeat for the opponents of excessive secrecy."

Among the more serious national papers, only The Daily Telegraph was pleased.

"All governments have secrets and a duty to protect them," said The Telegraph, whose editor is a former minister of information in a Conservative Party government.

In the modern world, information is power and politicians often are reluctant to share it.

The view of many in power here is that most citizens are not equipped to make judgments about public policy and information will only confuse. By coincidence, Callaghan's son-in-law, and ambassador in Washington, Peter Jay, is now involved in a classic demonstration of this view. He has just dismissed the head of the British Information Service in New York, in part reportedly because that civil servant insisted on continuing a daily bulletin summarizing editorials that criticize as well as praise the government.

The Callaghan proposals no doubt will be changed before they reach Parliament. But given the elitist tradition here, few in Fleet Street can expect any lever to make this closed government more open.

WASH. POST

21 JULY 1978

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Col. 1, 2

ADMINISTRATIVE - INTERNAL USE ONLY

This Notice is Current Until Rescinded

RECORDS AND CORRESPONDENCE

ACCESS TO EMPLOYEE RECORDS

1. This notice announces a modification in the Agency system for employees' access to records on themselves to separate informal file review from the formal procedures of the Privacy Act. The change is intended to improve and facilitate access for all employees, including those under cover.  will be modified accordingly.

2. The Privacy Act provides that "each Agency" will permit an individual not only "to review the record" but also "to have copies made of all or any portion in a form comprehensible to him." Provisions are also made for the exemption from release of certain types of information, such as classified information, data involving the privacy of other individuals, information which would identify

investigative sources, and documents that would reveal intelligence sources and methods. Such exemptions, for example, preclude current or former Agency employees under cover from receiving any document that would reflect Agency employment, and necessitate sanitization of many documents before they can be released to employees not under cover. The basic rule in the access provisions of the Privacy Act is that all documents released to an employee must be unclassified or sanitized and available for use outside of CIA facilities as the employee sees fit.

3. In view of the high volume of classified and operationally sensitive documents contained within Agency records, it is necessary to provide a channel consistent with but separate from the Privacy Act for employee file review. This informal procedure is available to all current employees who simply wish to review records concerning them in one or more of those file systems listed at the end of

this notice. Not all employees will have files in every system. Arrangements for the review can be made by an oral request to the office which holds the file. This informal process will be limited to a reading only. Notes may be taken, but no copies of documents will be provided. The file will normally be reviewed in the presence of the person responsible for maintaining the file. It may also be necessary for the records systems manager to exempt some documents or portions of documents from the review, either for operational need-to-know, or because the information involves the privacy of others. When a system's manager exempts documents from review, the employee will be apprised of the basis for the denial. The employee may appeal this denial, in writing, to the Office Director or to the head of whatever component is responsible for maintaining that employee file system. A second-level appeal may also be

made to the Information Review Committee via the Information Review Committee Working Group. The Information Review Committee is made up of the Deputy Directors for Administration, Operations and Science and Technology, and the Deputy Director of NFAC.

4. Should an employee wish to supplement the records seen during the informal review process, he or she may do so by submitting the supplement in writing to the custodian of the file. Any request for copies of documents, or for amendments to the records involve the access provisions of the Privacy Act and should be made in writing to the Information and Privacy Coordinator, 2E50 HQS.

5. There is no stigma attached to employees seeking review of a file maintained under his or her name. Every effort will be made to make most of these files available to employees within the constraints of cover, security, operational need-to-know, and respect for the privacy of



other individuals. Employees generally are encouraged to review their files to assure accuracy, timeliness, and relevancy of the records held on themselves.

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(to be distributed at meeting)

8 August 1978

STAT MEMORANDUM FOR: [REDACTED]  
Chairman, Information Review Committee Working Group

STAT FROM: [REDACTED]  
Chief, Records Review Branch

SUBJECT: Central Control for Recording all Declassification Action

1. Action Requested: Approval of RRB as the Central Control Office for recording all declassification action taken by any element within the Agency.

2. Background: All permanent records are subject to systematic review for declassification as required in E.O. 11652 and E.O. 12065. Agency records found in the permanent files of other government agencies when turned over to the National Archives and Records Service (NARS) or Presidential Libraries are also subject to review. Currently several offices within this Agency such as IPS, RRB, OGC, and the Historian Office are involved in reviewing classified documents and declassifying such records when appropriate. At present there is no official policy requiring recording of a declassification action in any central office or in any one data system. Recently NARS submitted a list of CIA reports in the Truman Library, listing those declassified to date and asking a classification determination of the remainder. Four of those declassified had been reviewed by RRB and classification had been retained on two of them. There was no record in the Agency as to what component had declassified the reports.

3. Advantages of Establishing a Central Control Office: A Central Control Office would ensure greater consistency in the declassification process and prevent embarrassment to the Agency by minimizing the possibility that two elements might reach a different conclusion. Duplication of effort by various offices would be avoided by the ability to check computer files in one office only. The DARE system used by the RRB office of ISAS is capable of handling the input into the system of declassification action taken by other Agency elements. Arrangements have already been completed with IPS to record its declassification action in the DARE system. IPS will continue to use the DCAL system to record action by case and record any sanitization action taken.

4. Recommendation: That you approve as Agency declassification policy, the concept that any declassification action taken by any office

or element in the Agency is coordinated with RRB for recording such  
declassification into the DARE system.



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